

No. 11624-4Lab-75/31826.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Devchitra Lok, Sohna (District Gurgaon), Haryana.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL  
HARYANA, FARIDABAD

Reference No. 117 of 1975

*between*

SHRI M. K. SHARMA, WORKMAN AND THE MANAGEMENT OF M/s DEVCHITRA LOK,  
SOHNA (DISTRICT GURGAON), HARYANA

AWARD

By order No. ID/GG/75/50513, dated 16th July, 1975, the Governor of Haryana, referred the following dispute between the management of M/s. Devchitra Lok, Sohna (District Gurgaon), Haryana and its workman Shri M. K. Sharma to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 the Industrial Disputes Act, 1947.

Whether the termination of services Shri M.K. Sharma was justified and in order ? If not, to what relief is he entitled ?

Usual notices of the reference being sent to the parties, the workman was absent before me on 30th September, 1975 despite being personally served. Shri S. K. Paul, General Manager of the respondent appeared in person and made a statement that the demands made on the management by the workman had been satisfied.

The statement of the General Manager as referred to above seems to be correct in absence of the workman. I, therefore, hold in view of the absence of the workman despite service of notice of the reference that he is not interested in pursuing his demands and there is now no dispute between the parties requiring adjudication. I return the award accordingly.

MOHAN LAL JAIN,

Dated the 30th September, 1975

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 11555-4Lab-75/31861.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Model Co-operative Transport Ltd., Gurgaon.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 226 of 1971

*between*

SHRI JASWANT SINGH AND THE MANAGEMENT OF M/S MODEL CO-OPERATIVE  
TRANSPORT LTD., GURGAON

AWARD

By order No. ID/GG/30-F-71/32653-57, dated 8th November, 1971 of the Governor of Haryana, the following dispute between the management of M/s Model Co-operative Transport Ltd., Gurgaon and its workman Shri Jaswant Singh was referred for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947:—

“Whether the termination of services of Shri Jaswant Singh was justified and in order ?  
If not, to what relief is he entitled ?”

Usual notices of the reference being sent to the parties, they appeared before this court. The management filed their written statement in reply to the notice of demand of the workman claiming reinstatement on the ground that the services had been terminated without sufficient cause with effect from 1st November, 1970 when he was refused permission to attend his duties.

The management pleaded that the workman remained employed with the Globe Co-operative Transport Society Ltd., Delhi preceeding 15th July, 1970 and that an application made by him for extension of leave by 2 months had thus to be rejected. It was stated that the workman had been asked,—*vide* letter dated 16th August, 1969 to return to work immediately and that he was intimated that in case of his failure to do so, his name would be struck off the rolls. The allegation of the workman that he presented himself on 15th October, 1969 for attending his duties were stoutly denied. The workman controverted the pleas of the respondent,—*vide* rejoinder filed by him with an averment that he initially applied for grant of 18 days leave for the period from 12th June, 1969 to 30th June, 1969 and that he thereafter got it extended till 14th October, 1969 and that he received letter of the management dated 4th October, 1969 informing him that he had lost lien of service as a result of continued absence and that his leave had not been extended. He stated that he reported for duty on 15th October, 1969 at 8 A.M. in the office of the management situated at Inter State Bus Terminal, Kashmiri Gate, Delhi after the expiry of his leave and that neither Sardar Ajit Singh eldest son of the Managing Director nor Shri Santosh Singh, Accountant of the management assigned him any duty. He finally gave out that he received letter dated 8th July, 1970 that his name had been struck off the rolls.

The following issue was framed on pleas of the parties,—*vide* order dated 10th March, 1972 of my learned predecessor Shri P. N. Thukral the then Presiding Officer of the Labour Court:—

Whether the workman left the job himself?

The management in order to prove the aforesaid issue examined Shri Santokh Singh their Accountant M. W. 1, Shri Gian Chand their Clerk-cum-Cashier M. W. 2, Shri Tirlochan Singh M. W. 3, Shri Ajit Singh M. W. 4, Shri K. C. Midha M. W. 5, Shri Inder Singh M. W. 6, Shri Richpal Singh M. W. 7, Shri Ajit Singh M. W. 8 and Shri Amar Singh M. W. 9.

Shri Santokh Singh deposed that on being asked by him in the middle of October, 1969 to join his duties the workman Shri Jaswant Singh declined to do so. Shri Gian Chand stated that the workman refused to join his duties on being asked to do so on 14th October, 1969 Shri Tirlochan Singh, Manager, People Co-operative Transport Society Ltd., Bahadurgarh supported the case of the respondent while stating that he had seen Jaswant Singh workman, working as a Checker on a bus of Globe Co-operative Society Ltd., Delhi during the year from 1969 to 1970, Shri Ajit Singh, Director respondent examined as M. W. 4 gave out that the workman met him on 14th October, 1969 at the bus stand and did not express his desire to join duty. Shri K. C. Midha held an enquiry against the workman. He stated that the workman did not participate in the enquiry in response to the notice sent to him. Shri Inder Singh brought the records from the office of Assistant Registrar Co-operative Societies and Shri Richpal Singh produced report of the Conciliation Officer made by him in the matter of the dispute under reference. Shri Ajit Singh, Secretary Globe Co-operative Transport Society, Delhi M. W. 8 supported the case of the management while stating that Shri Jaswant Singh, workman worked as a Checker with their Society during the period from 1st July, 1970 to 30th June, 1971 and that he was the Vice President of their Society. On being examined on the next date of hearing with reference to the record he admitted that Shri Jaswant Singh worked as a Checker for the period from 15th June, 1969 to 30th June, 1970 and for about 2 or 3 months in the year 1971. Shri Amar Singh, Accountant of the respondent deposed with reference to the Attendance register brought by him that Shri Jaswant Singh had been marked present till 12th June, 1969 and on leave during the period from 13th June, 1969 to 30th June, 1969 and absented thereafter during the month of July, 1969.

This is all the evidence brought on record by the respondent. Nothing could be brought in cross-examination of any of the witnesses leading me to doubt his testimony. The most important part of the evidence of the respondent consists of the statement of Ajit Singh M. W. 8 Secretary, Globe Co-operative Transport Society, Delhi made by him with reference to record that Shri Jaswant Singh had been working as a Checker with his Society from 15th June, 1969 to 30th June, 1970 on wages of Rs. 200 per mensem and for about 2 or 3 months in the year 1971. His statement was corroborated by Shri Tirlochan Singh, Manager People Co-operative Society Ltd., Bahadurgarh M. W. 3, who had actually seen Shri Jaswant Singh working as a Checker on the buses of Globe Co-operative Transport Society, Delhi during years 1969 to 1970. I see no reason to disbelieve any of these witnesses.

Coming to the statement of Shri Jaswant Singh workman himself he while deposing that he remained on leave from 13th July, 1969 to 14th October, 1969 and presented himself before Sarvshri Santokh Singh and Ajit Singh for attending his duties on 15th October, 1969 and was not

permitted by them to do so, admitted that he had made a deposition before Shri Puran Mal Jain, Nominee, Registrar, Co-operative Societies, Delhi appointed as an Arbitrator in case No. 36(3) of 1970-71 on 12th December, 1971, that he had been working on the route from Delhi to Bhiwani of Globe Co-operative Transport Society Ltd., Delhi for about one year. It would thus appear that the matter stood clinched by an admission of the workman himself that he had worked with Globe Co-operative Transport Society for one year. This admission has not in any way been proved to be false and is entitled to be relied upon. This in a way lends support to the statements of Shri Ajit Singh, Secretary, Globe Co-operative Transport Society, Delhi and Tirlochan Singh, Manager People Co-operative Transport Society Ltd., Bahadurgarh. It is thus clear that Jaswant Singh could not have appeared before Sarvshri Santokh Singh and Ajit Singh of the respondent Society on 15th October, 1969 for attending his duties although the possibility of his having gone on or about that date to the Inter State Bus Terminal, Delhi otherwise than for attending his duties cannot be ruled out. I fully rely on the evidence of Shri Santokh Singh, Gian Chand and Ajit Singh M. W. 4 that on being asked on that date to join his duty he declined to do so.

I, in the result, hold that this is a case of abandonment of the service by the workman himself and the plea of the management set up in that connection stands fully substantiated. I decide the issue in favour of the management with a finding that the workman is not entitled to any relief. There shall be no order as to costs.

Dated the 3rd October, 1975

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

The 22nd October, 1975

No. 12016-4Lab-75/31781.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s Municipal Committee, Nuh.

**BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK**

**Reference No. 50 of 1971**

*between*

**SHRI BABU RAM GOEL AND THE MANAGEMENT OF M/S MUNICIPAL  
COMMITTEE, NUH**

**AWARD**

This award shall dispose of this reference No. 50 of 1971 and reference No. 88 of 1971 between Ganga Dass and Municipal Committee, Nuh, as common questions of fact and law are involved in both these proceedings which were consolidated,—vide order dated 7th March, 1972 of my learned predecessor Shri P. N. Tinkral, the then Presiding Officer of the Labour Court.

The Governor of Haryana, in exercise of the powers vesting in him under clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act) referred the following dispute between the workman and Municipal Committee, Nuh in each case for adjudication by this court :—

**Whether the termination of services of Shri Babu Ram Goel/Ganga Dass was justified and in order? If not, to what relief is he entitled?"**

Usual notices of the reference being sent to the parties for their service directing them to appear, they put in their appearance. The Municipality filed a written statement in response to the notice of demand while pleading that the workman did not raise a demand directly on the respondent in respect of the present dispute before approaching the Conciliation Officer and as such the reference was bad in law and was liable to be rejected. They further resisted the demand of the workman on the ground that he was not a workman within the definition of that term as given in section 2(s) of the Act and that the Municipality was not an industry as defined in the Act and this court had no jurisdiction to adjudicate the dispute. It was stated that the majority of the employees of the Municipality did not support the demand and as such the reference was bad on this ground as well.

The Municipality resisted the demand on merits while admitting the retrenchment of the workman under a letter of the Haryana Government directing them to reduce their expenses on administration and stating that the action taken by them in retrenching the services of the workman was justified and that he had his remedy by way of filing an appeal under the provisions of Punjab Municipal Act and not by way of a reference.

The preliminary objections of the management that the Committee was not an industry and the workman was not covered by the definition of that terms as given in the Act were decided in favour of the workman,—*vide* order dated 3rd December, 1971 and the following issues were framed on other pleas,—*vide* order dated 12th January, 1972 of my learned predecessor :—

- (1) Whether the reference is not legal for the reasons given in the written statement ?
- (2) If the above issue is found in favour of the workman, his termination of services was justified and in order ? If not, to what relief is he entitled ?

I have heard authorised representatives of the parties and seen the written arguments supplied by them. I decide the issues as under.

#### Issue No. 1

For the detailed reasons stated by me in my order dated 10th October, 1975 made in reference No. 71 of 1974 between Shri S. C. Sethi and the management of M/s Kirlosker Oil Engines Ltd., Faridabad, I decide this issue against the management.

#### Issue No. 2

As would appear from the written reply of the management, they admitted having retrenched the services of the workman under a letter of the Haryana Government. It also stands admitted that no retrenchment compensation as required under section 25F clause (b), equivalent to 15 days average pay was paid to the workman by the Committee nor any notice was served on the appropriate Government in accordance with the provisions of section 25F clause (c) of the Act. A notice was, however, sent by the Committee to each one of the workmen that his services were no longer required and that his services shall be deemed to be terminated after one month of the receipt of the notice by him. The Municipality being held an industry, in case of an inconsistency between the provisions of Industrial Disputes Act and other rules governing the conditions of service of the workmen, the former shall supercede the later. It is thus obvious that the retrenchment of the workman being not in accordance with the provisions of section 25F of the Act is illegal.

Faced with the difficulty, the Municipality set up quite a different case at the time addressing of arguments with the contentions that the services of the workman had been retrenched under section 25FFF of the Act as a result of closure of the octroi posts and abolition of 2 posts of octroi clerks. This argument has only to be stated to be rejected, in as much as the contention is quite inconsistent and contradictory to the pleas taken in the written statement, in as much as the Municipality has admittedly not ceased to be function and there cannot be a conception of closure of an octroi post. The argument thus advanced by the learned authorised representative of the respondent Committee is untenable. I thus decide issue against the respondent. An authority reported as 1970-L-I-C. 588 of the Bombay High Court relied on by the respondent, that the Octroi Department of a Municipality is not an industry has no application in view of the contraview of our own High Court.

The result is that the termination of the services of the workman is unjustified and he is entitled to be reinstated with continuity of service. He shall be entitled to full back wages for the period during which he remained gainfully unemployed. I as such return the award accordingly with no order as to costs.

Dated 10th October, 1975.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 2587, dated the 16th October, 1975.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.